

MAINE STATE LEGISLATURE

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Legislative Record
House of Representatives
One Hundred and Twenty-Second Legislature
State of Maine

Volume II

First Special Session

May 26, 2005 – June 17, 2005

Second Special Session

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January 4, 2006 - April 6, 2006

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ONE HUNDRED AND TWENTY-SECOND LEGISLATURE
FIRST SPECIAL SESSION
27th Legislative Day
Thursday, June 2, 2005

Representative CUMMINGS of Portland assumed the Chair.
The House met according to adjournment and was called to order by the Speaker Pro Tem.
Prayer by Reverend Joseph W. Chamberland, Eaton Memorial United Methodist Church, Livermore Falls.
Pledge of Allegiance.
The Journal of yesterday was read and approved.

SENATE PAPERS
Non-Concurrent Matter

Bill "An Act Establishing Minimum Energy Efficiency Standards for Certain Products Sold or Installed in the State" (H.P. 999) (L.D. 1435)

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-307) AS AMENDED BY HOUSE AMENDMENT "A" (H-370) thereto in the House on May 31, 2005.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "B" (S-310) in NON-CONCURRENCE.**

Representative BLISS of South Portland moved that the House **RECEDE AND CONCUR.**

On further motion of the same Representative, **TABLED** pending his motion to **RECEDE AND CONCUR** and later today assigned.

Non-Concurrent Matter

Bill "An Act Concerning the Measurement of Firewood" (H.P. 1005) (L.D. 1441)

Majority (8) **OUGHT NOT TO PASS** Report of the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** **READ** and **ACCEPTED** in the House on June 1, 2005.

Came from the Senate with the Reports **READ** and the Bill and accompanying papers **COMMITTED** to the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** in **NON-CONCURRENCE.**

On motion of Representative SMITH of Monmouth, **TABLED** pending **FURTHER CONSIDERATION** and later today assigned.

Non-Concurrent Matter

Resolve, Directing the Board of Trustees of the University of Maine System To Institute a Statewide Sports Program (S.P. 453) (L.D. 1326)

Majority (7) **OUGHT NOT TO PASS** Report of the Committee on **EDUCATION AND CULTURAL AFFAIRS** **READ** and **ACCEPTED** in the House on June 1, 2005.

Came from the Senate with that Body having **INSISTED** on its former action whereby the Minority (6) **OUGHT TO PASS AS AMENDED** Report of the Committee on **EDUCATION AND CULTURAL AFFAIRS** was **READ** and **ACCEPTED** and the Resolve **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-273) in NON-CONCURRENCE.**

On motion of Representative CAIN of Orono, **TABLED** pending **FURTHER CONSIDERATION** and later today assigned.

COMMUNICATIONS

The Following Communication: (S.C. 369)

MAINE SENATE
122ND LEGISLATURE
OFFICE OF THE SECRETARY

May 31, 2005

Honorable Millicent M. MacFarland

Clerk of the House

State House Station 2

Augusta, ME 04333

Dear Clerk MacFarland:

Please be advised the Senate today adhered to its previous action whereby it accepted the Majority Ought Not to Pass Report from the Committee on Criminal Justice and Public Safety on Bill "An Act To Amend the Laws Governing Concealed Firearms Permits" (H.P. 624 L.D. 874) .

Sincerely,

S/Joy J. O'Brien

Secretary of the Senate

READ and **ORDERED PLACED ON FILE.**

REPORTS OF COMMITTEE

Divided Report

Majority Report of the Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-114)** on Bill "An Act To Ensure Sufficient Staffing To Properly Enforce the Laws and Rules of the Manufactured Housing Board" (S.P. 87) (L.D. 267)

Signed:

Senators:

DOW of Lincoln

HOBBINS of York

Representatives:

AUSTIN of Gray

ROBINSON of Raymond

RECTOR of Thomaston

BERUBE of Lisbon

BEAUDETTE of Biddeford

JACOBSEN of Waterboro

CROSBY of Topsham

Minority Report of the same Committee reporting **Ought Not to Pass** on same Bill.

Signed:

Senator:

BROMLEY of Cumberland

Representatives:

SMITH of Monmouth

FARRINGTON of Gorham

O'BRIEN of Lewiston

Came from the Senate with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-114).**

READ.

On motion of Representative SMITH of Monmouth, **TABLED** pending **ACCEPTANCE** of either Report and later today assigned.

Majority Report of the Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-295)** on Bill "An Act To Establish the Androscoggin County Budget Advisory Committee and the Somerset County Budget Advisory Committee"
(S.P. 343) (L.D. 1003)

Signed:

Senators:

SCHNEIDER of Penobscot
ANDREWS of York

Representatives:

BARSTOW of Gorham
McFADDEN of Dennysville
MOULTON of York
HARLOW of Portland
BISHOP of Boothbay
CROSTHWAITE of Ellsworth
SAMPSON of Auburn
BLANCHARD of Old Town
MUSE of Fryeburg
SCHATZ of Blue Hill

Minority Report of the same Committee reporting **Ought Not to Pass** on same Bill.

Signed:

Senator:

ROTUNDO of Androscoggin

Came from the Senate with the Reports **READ** and the Bill and accompanying papers **COMMITTED** to the Committee on **STATE AND LOCAL GOVERNMENT**.

READ.

On motion of Representative BARSTOW of Gorham, the Bill and all accompanying papers were **COMMITTED** to the Committee on **STATE AND LOCAL GOVERNMENT** in concurrence.

Majority Report of the Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought Not to Pass** on Bill "An Act To Clarify Rights of Retainage in Public Improvement Construction Contracts"
(S.P. 503) (L.D. 1478)

Signed:

Senators:

SCHNEIDER of Penobscot
ROTUNDO of Androscoggin

Representatives:

BARSTOW of Gorham
McFADDEN of Dennysville
MOULTON of York
HARLOW of Portland
CROSTHWAITE of Ellsworth
SAMPSON of Auburn
BLANCHARD of Old Town
MUSE of Fryeburg
SCHATZ of Blue Hill

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (S-300)** on same Bill.

Signed:

Senator:

ANDREWS of York

Representative:

BISHOP of Boothbay

Came from the Senate with the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.

READ.

On motion of Representative BARSTOW of Gorham, the Majority **Ought Not to Pass** Report was **ACCEPTED** in concurrence.

Majority Report of the Committee on **TAXATION** reporting **Ought Not to Pass** on Bill "An Act To Establish the Maine Taxpayers' Bill of Rights"
(S.P. 351) (L.D. 1011)

Signed:

Senators:

PERRY of Penobscot
STRIMLING of Cumberland

Representatives:

CLARK of Millinocket
WOODBURY of Yarmouth
PINEAU of Jay
WATSON of Bath

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (S-304)** on same Bill.

Signed:

Senator:

COURTNEY of York

Representatives:

HANLEY of Paris
CLOUGH of Scarborough
BIERMAN of Sorrento

Came from the Senate with the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.

READ.

Representative WOODBURY of Yarmouth moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

On further motion of the same Representative, **TABLED** pending his motion to **ACCEPT** the Majority **Ought Not to Pass** Report and later today assigned.

Majority Report of the Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-306)** on Bill "An Act To Fully Fund the Homestead Exemption"
(S.P. 602) (L.D. 1625)

Signed:

Senator:

COURTNEY of York

Representatives:

HANLEY of Paris
McCORMICK of West Gardiner
CLOUGH of Scarborough
PINEAU of Jay
BIERMAN of Sorrento
SEAVEY of Kennebunkport

Minority Report of the same Committee reporting **Ought Not to Pass** on same Bill.

Signed:

Senators:

PERRY of Penobscot
STRIMLING of Cumberland

Representatives:

CLARK of Millinocket
WOODBURY of Yarmouth
HUTTON of Bowdoinham
WATSON of Bath

Came from the Senate with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-306)**.

READ.

On motion of Representative **WOODBURY** of Yarmouth, **TABLED** pending **ACCEPTANCE** of either Report and later today assigned.

Majority Report of the Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-603)** on Bill "An Act To Adopt the Streamlined Sales and Use Tax Agreement"

(H.P. 747) (L.D. 1094)

Signed:

Senators:

PERRY of Penobscot
STRIMLING of Cumberland

Representatives:

WATSON of Bath
HANLEY of Paris
CLARK of Millinocket
McCORMICK of West Gardiner
WOODBURY of Yarmouth
PINEAU of Jay
HUTTON of Bowdoinham
SEAVEY of Kennebunkport

Minority Report of the same Committee reporting **Ought Not to Pass** on same Bill.

Signed:

Senator:

COURTNEY of York

Representatives:

BIERMAN of Sorrento
CLOUGH of Scarborough

READ.

Representative **WOODBURY** of Yarmouth moved that the House **ACCEPT** the Majority **Ought to Pass as Amended** Report.

On further motion of the same Representative, **TABLED** pending his motion to **ACCEPT** the Majority **Ought to Pass as Amended** Report and later today assigned.

Majority Report of the Committee on **TAXATION** reporting **Ought Not to Pass** on Bill "An Act To Impose a Gross Receipts Tax on 'Big Box' Stores"

(H.P. 1094) (L.D. 1553)

Signed:

Senator:

COURTNEY of York

Representatives:

CLARK of Millinocket
HANLEY of Paris
McCORMICK of West Gardiner
WOODBURY of Yarmouth
CLOUGH of Scarborough
SEAVEY of Kennebunkport
BIERMAN of Sorrento

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-604)** on same Bill.

Signed:

Senators:

PERRY of Penobscot
STRIMLING of Cumberland

Representatives:

PINEAU of Jay
HUTTON of Bowdoinham
WATSON of Bath

READ.

On motion of Representative **WOODBURY** of Yarmouth, **TABLED** pending **ACCEPTANCE** of either Report and later today assigned.

Majority Report of the Committee on **TAXATION** reporting **Ought Not to Pass** on Bill "An Act To Sunset Income Tax Checkoffs"

(H.P. 1133) (L.D. 1606)

Signed:

Senators:

PERRY of Penobscot
STRIMLING of Cumberland

Representatives:

CLARK of Millinocket
PINEAU of Jay
HUTTON of Bowdoinham
SEAVEY of Kennebunkport
WATSON of Bath

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-605)** on same Bill.

Signed:

Senator:

COURTNEY of York

Representatives:

HANLEY of Paris
McCORMICK of West Gardiner
WOODBURY of Yarmouth
CLOUGH of Scarborough
BIERMAN of Sorrento

READ.

On motion of Representative **WOODBURY** of Yarmouth, **TABLED** pending **ACCEPTANCE** of either Report and later today assigned.

CONSENT CALENDAR

First Day

In accordance with House Rule 519, the following items appeared on the Consent Calendar for the First Day:

(S.P. 422) (L.D. 1208) Resolve, Creating a Working Group To Study the High Rate of Suicide in Maine (EMERGENCY) Committee on **HEALTH AND HUMAN SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-308)**

(H.P. 1065) (L.D. 1518) Bill "An Act To Increase Access to Justice in Maine's Court System" Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-620)**

Under suspension of the rules, Second Day Consent Calendar notification was given.

There being no objection, the Senate Paper was **PASSED TO BE ENGROSSED** as Amended in concurrence and the House Paper was **PASSED TO BE ENGROSSED** as Amended and sent for concurrence.

(H.P. 292) (L.D. 390) Bill "An Act To Improve Maine's Sex Offender Notification Laws" Committee on **CRIMINAL JUSTICE AND PUBLIC SAFETY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-618)**

On motion of Representative BLANCHETTE of Bangor, was **REMOVED** from the First Day Consent Calendar.

The Committee Report was **READ**.

On further motion of the same Representative, **TABLED** pending **ACCEPTANCE** of the Unanimous Committee Report and later today assigned.

BILLS IN THE SECOND READING

Senate as Amended

Bill "An Act To Provide Tax Benefits for Sale of Leased Land Used as a Primary Residence"

(S.P. 237) (L.D. 700)

(C. "A" S-267)

Bill "An Act To Promote the Use of Public Safety Telecommunications Equipment by the Deaf and Hard-of-hearing Community"

(S.P. 595) (L.D. 1613)

(C. "A" S-285)

Bill "An Act To Create a Small Distillery License"

(S.P. 607) (L.D. 1641)

(C. "A" S-277)

House

Bill "An Act Regarding Energy Codes"

(H.P. 1191) (L.D. 1685)

House as Amended

Resolve, To Reestablish the Health Care System and Health Security Board (EMERGENCY)

(H.P. 35) (L.D. 32)

(C. "A" H-513)

Bill "An Act To Encourage the Use of Solar Energy"

(H.P. 1122) (L.D. 1586)

(C. "A" H-615)

Reported by the Committee on **Bills in the Second Reading**, read the second time, the Senate Papers were **PASSED TO BE ENGROSSED AS AMENDED** in concurrence and the House Papers were **PASSED TO BE ENGROSSED** or **PASSED TO BE ENGROSSED AS AMENDED** and sent for concurrence.

Bill "An Act To Create a Senior Tax Rebate Program for Established Residents"

(S.P. 41) (L.D. 135)

(C. "A" S-302)

Was reported by the Committee on **Bills in the Second Reading** and **READ** the second time.

On motion of Representative WOODBURY of Yarmouth, was **SET ASIDE**.

On further motion of the same Representative, **TABLED** pending **PASSAGE TO BE ENGROSSED** as Amended and later today assigned.

Bill "An Act To Eliminate Term Limits in the Legislature"

(S.P. 180) (L.D. 572)

(C. "A" S-278)

Was reported by the Committee on **Bills in the Second Reading** and **READ** the second time.

On motion of Representative CRAVEN of Lewiston, was **SET ASIDE**.

On further motion of the same Representative, **TABLED** pending **PASSAGE TO BE ENGROSSED** as Amended and later today assigned.

ENACTORS

Emergency Measure

An Act To Restore Fair MaineCare Payments to Critical Access Hospitals

(S.P. 231) (L.D. 694)

(C. "A" S-262)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 120 voted in favor of the same and 0 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker Pro Tem and sent to the Senate.

Emergency Measure

An Act Regarding Transition Provisions for the Sharing of Costs in Certain School Districts

(H.P. 1189) (L.D. 1684)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 116 voted in favor of the same and 2 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker Pro Tem and sent to the Senate.

Emergency Measure

Resolve, To Establish the Blue Ribbon Commission on the Future of MaineCare

(H.P. 594) (L.D. 835)

(C. "A" H-523)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 110 voted in favor of the same and 0 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker Pro Tem and sent to the Senate.

Mandate

An Act To Amend the Laws Governing the Student Code of Conduct

(H.P. 419) (L.D. 564)

(C. "A" H-333)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Hartland, Representative Stedman.

Representative **STEDMAN**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This is a mandate only because it is giving instruction to the school systems to do something that the department feels is important and that is to include the word "bullying" in the student code of conduct. The fact that it is a mandate is that there could be some minor costs to the school systems that have already published this code of conduct book anyway. So, that is why it has to be a mandate because there could be a minor cost to the school system. Thank you.

Representative DUPLESSIE of Westbrook **REQUESTED** a roll call on **PASSAGE TO BE ENACTED**.

On further motion of the same Representative **TABLED** pending **PASSAGE TO BE ENACTED** and later today assigned. (Roll Call Requested)

Acts

An Act To Increase Eligibility for the Property Tax Exemption for Veterans'

(H.P. 70) (L.D. 74)
(C. "A" H-529)

An Act To Change Nonresident Income Tax Filing Requirements

(H.P. 175) (L.D. 236)
(C. "A" H-530)

An Act To Allow Emergency Responders To Equip Their Vehicles with 2 Emergency Flashing Lights

(H.P. 182) (L.D. 243)
(S. "A" S-270 to C. "A" H-220)

An Act To Amend the Laws Governing Mechanics Liens

(H.P. 199) (L.D. 260)
(C. "A" H-540)

An Act To Improve the Operation of Underground Damage Prevention Procedures

(H.P. 254) (L.D. 331)
(C. "A" H-558)

An Act Regarding Divorce and Marital Property

(H.P. 454) (L.D. 621)
(C. "A" H-496)

An Act To Amend the Electronic Insurance Cancellation Notification Law

(H.P. 467) (L.D. 634)
(C. "A" H-518)

An Act To Allow a Landlord To Discover Whether Sewer and Water Bills Have Been Paid

(H.P. 557) (L.D. 780)
(C. "A" H-539)

An Act To Implement the Recommendations of the Commission To Study Public Health That Concern Schools, Children and Nutrition

(S.P. 263) (L.D. 796)
(C. "A" S-268)

An Act To Require That Directors within the Department of Agriculture, Food and Rural Resources Be Unclassified

(S.P. 270) (L.D. 815)
(C. "A" S-249)

An Act To Provide Greater Civil Relief Protection for Members of the Military

(H.P. 610) (L.D. 859)
(C. "A" H-538)

An Act Regarding Child Protection Proceedings

(H.P. 618) (L.D. 867)
(C. "A" H-545)

An Act To Increase Access to Information Regarding Referendum Questions

(H.P. 621) (L.D. 870)
(C. "A" H-505)

An Act To Promote Parity in the Laws Governing Smoking in the Workplace

(S.P. 294) (L.D. 886)
(C. "A" S-261)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed, **PASSED TO BE ENACTED**, signed by the Speaker Pro Tem and sent to the Senate.

Resolves

Resolve, To Encourage Parents To Choose To Dedicate a Portion of Child Support Payments to College Investment Accounts

(H.P. 47) (L.D. 51)
(C. "A" H-495)

Resolve, Concerning Temporary Guardianship Laws

(H.P. 81) (L.D. 105)
(C. "A" H-541)

Resolve, Directing the Department of Health and Human Services To Study Initiatives for Local Pharmacies Participating in the MaineCare Program

(H.P. 437) (L.D. 604)
(C. "A" H-556)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed, **FINALLY PASSED**, signed by the Speaker Pro Tem and sent to the Senate.

An Act To Exempt Unemployment Benefits from State Income Tax

(H.P. 255) (L.D. 332)
(C. "A" H-404)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed.

On motion of Representative TARDY of Newport, was **SET ASIDE**.

The same Representative **REQUESTED** a roll call on **PASSAGE TO BE ENACTED**.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

On motion of Representative DUPLESSIE of Westbrook, **TABLED** pending **PASSAGE TO BE ENACTED** and later today assigned. (Roll Call Ordered)

An Act To Limit the Liability of Ambulance Services in Maine

(H.P. 287) (L.D. 385)
(C. "A" H-543)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed.

On motion of Representative PELLETIER-SIMPSON of Auburn, was **SET ASIDE**.

On further motion of the same Representative, **TABLED** pending **PASSAGE TO BE ENACTED** and later today assigned.

An Act To Improve Warranty Practices for Farm Machinery Dealerships

(S.P. 208) (L.D. 653)
(C. "A" S-258)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed.

On motion of Representative SMITH of Monmouth, was **SET ASIDE**.

The same Representative **REQUESTED** a roll call on **PASSAGE TO BE ENACTED**.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The **SPEAKER PRO TEM**: A roll call has been ordered. The pending question before the House is Enactment. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 238

YEA - Adams, Annis, Ash, Austin, Babbidge, Barstow, Berube, Blanchard, Blanchette, Bliss, Bowen, Brannigan, Brautigam, Brown R, Browne W, Bryant, Burns, Cain, Canavan, Carr, Cebra, Churchill, Clark, Clough, Collins, Craven, Cressey, Crosthwaite, Cummings, Curley, Curtis, Daigle, Davis G, Driscoll, Duchesne, Dugay, Dunn, Duplessie, Duprey, Eberle, Eder, Edgecomb, Emery, Faircloth, Farrington, Finch, Fischer, Fisher, Fitts, Fletcher, Flood, Glynn, Goldman, Greeley, Hall, Hamper, Hanley B, Hanley S, Harlow, Hogan, Hotham, Hutton, Jackson, Jodrey, Kaelin, Koffman, Lansley, Lerman, Lewin, Lindell, Lundeen, Makas, Marley, Marraché, Mazurek, McCormick, McFadden, McKane, McKenney, McLeod, Merrill, Miller, Millett, Mills, Moody, Moore G, Moulton, Muse, Nass, Norton, Nutting, O'Brien, Ott, Paradis, Patrick, Pelletier-Simpson, Perry, Pilon, Pineau, Pingree, Pinkham, Piotti, Plummer, Rector, Richardson E, Richardson M, Richardson W, Robinson, Rosen, Sampson, Saviello, Schatz, Seavey, Shields, Smith N, Smith W, Stedman, Sykes, Tardy, Thomas, Thompson, Trahan, Tuttle, Twomey, Valentino, Walcott, Watson, Wheeler, Woodbury.

NAY - NONE.

ABSENT - Beaudette, Bierman, Bishop, Bowles, Bryant-Deschenes, Campbell, Crosby, Davis K, Dudley, Gerzofsky, Grose, Jacobsen, Jennings, Joy, Marean, Percy, Richardson D, Rines, Sherman, Vaughan, Webster, Mr. Speaker.

Yes, 129; No, 0; Absent, 22; Excused, 0.

129 having voted in the affirmative and 0 voted in the negative, with 22 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker Pro Tem and sent to the Senate.

An Act To Increase Retired Teachers' Health Insurance Benefits

(H.P. 535) (L.D. 758)
(C. "A" H-410)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed.

On motion of Representative BOWEN of Rockport, was **SET ASIDE**.

The same Representative **REQUESTED** a roll call on **PASSED TO BE ENACTED**.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Rockport, Representative Bowen.

Representative **BOWEN**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I was one of the very few in this body that voted against this bill last time that it came by here and I intend to vote against it in a couple of minutes. There have been very few times in my experience here that I have been as disappointed with the actions of this body as I was with this vote that was taken last week and the week before.

Casting a vote to promise an increase in retired teacher's health insurance without identifying any way to fund it, knowing that there is no money down on the Appropriations table to pay for it, we have done little more for retired teachers, as much as we would say we would like to, then to just give them another empty promise.

This is how we got the unfunded liability for the retirement system. Past Legislatures promised all kinds of benefits, added up the costs of retirement and never came up with a way to pay for it. They never dealt with how they were going to deal with those costs. The costs piled up and now we owe millions and millions, tens of millions, hundreds of millions to the retirement

system. This is how we got in this whole 55% for schools budget disaster that we are in now. Some past Legislature set a goal and said that we are going to fund 55% of school costs and didn't come up with any way to pay for it. They didn't try to phase it in or anything. The public finally got infuriated by it, passed a citizen's resolution and made them pay for it all at once. Now we are stuck trying to fill that gap with borrowing and now, it would appear, by some combination of painful cuts and painful taxes.

We are now giving another empty promise to teachers who already endure some of the lowest salaries in this nation, who already spend countless hours filling out mounds of pointless paperwork to satisfy the Department of Education. They are made to stand in line like common criminals to get finger printed by the actions of this body and now we are going to say that we are going to pay for your retirement but we are going to let some future Legislature figure out how to actually pay for that.

I realize that those on the other side of the aisle were given a great gift for your reelection campaigns if the Representative from Portland is to be believed, according to the newspapers and I am going to give you another one because I didn't come here to make empty promises for teachers. I am a teacher. I want this body to get serious. Instead of just sitting in here and saying that we care about teachers and really want to help them out why don't we pass something real and figure out a way to fund this, put it into the law and get it done. No more empty promises. Thank you.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Falmouth, Representative Davis.

Representative **DAVIS**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I would just like to disagree with my friend from Rockport, Representative Bowen. If you do not put this in the budget or do not have a bill to increase the benefits to teachers you will never get it.

At one time, I remind everybody, Governor King had cut the health insurance for retired teachers to 26%. We fought back and now it going to hopefully be 45%. So, if you never put this in the budget or you never have a bill to do this then this is the way the situation will work. At least we will be discussing and talking about the injustice to retired teachers and so on. If you never put in a bill than it never gets done so I would urge everybody to vote for this and hope for the best and fight for it as incrementally as you can. Thank you

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Winterport, Representative Kaelin.

Representative **KAELIN**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise for a couple of reasons. One is that I would like to let everyone know that you also have to be fingerprinted if you are a boat captain too so I don't think that we have necessarily wrongly pegged teachers as the only people that get fingerprinted around here. You also have to be fingerprinted to become a member of the New England Fisheries Management Council so this is just part of our world unfortunately.

The reason why I rose is that I just spoke with a teacher last night in a social conversation and they asked me what we were doing with this promise? What does it really mean? I said that it is one of these things that you can do so you can feel good about things and sort of give something even though you don't really end up paying for it similar to what we have done on the 55%. I was honest with the gentleman about it and he said that it was kind of what he had thought and then I went on to say my reason for voting for it is not so that we have a parity at 100%. In fact I hope that I will be here long enough to see the 100% come down for the state employees so that they are making a contribution to their retirement like people do in the business community all

throughout Maine. The parity may be somewhere around 75% or 80% so I am going to push my green light today but I wanted to stand and say that my intention in meeting this mandate down the road is that we find parity not at 100% because we can't afford that long term as taxpayers, but that we find parity somewhere in the 75% or 80% range and I hope that that is the course that we can all agree on going forward. I appreciate the opportunity to share that with you this morning. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Lewiston, Representative Craven.

Representative CRAVEN: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I rarely get up to speak on any bill but my local newspaper did indeed criticize me for voting in favor of this bill last week. But, I would like to read a little extra from a letter to the editor from the teachers' representative in my area that acts as the liaison for retired teachers.

It says, "Actually in this case, Representatives who voted for LD 758 reaffirmed a commitment the Legislature seemed to make in 1987 when it voted to increase the state's share of retired teachers health insurance by 5% a year until it reached parity with 100% paid for other state employees. Because of the budget constraints most years the commitment has not been met.

The bill was sponsored by Representative Kevin Glynn-R South Portland and supported by many fiscally conservative Representatives including Sawin Millett of Waterford, Thomas Shields of Auburn, among other Representatives. In spite of the bills' widespread support the paper criticized Representative Craven from those 123 and wondered what grade teachers would give her for that vote."

As a retired teacher I can answer that. I would give Representative Craven and the other 122 Representatives an A+ for reaffirming the state's commitment to move forward towards equality with the states retirement system. Thank you very much.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Skowhegan, Representative Richardson.

Representative RICHARDSON: Mr. Speaker, may I pose a question through the Chair?

The SPEAKER PRO TEM: The Representative may pose his question.

Representative RICHARDSON: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I would like to ask one, maybe two questions, but one in particular. We are deciding that we wanted to do this but I don't know and I am not sure that anybody else knows when you have fully funded the teacher's health insurance program' how much is it going to cost the state of Maine? This money is not coming from a vacuum. It is coming out of the pocket of the other people of the State of Maine. I think that it ought to be important to know that when we get 100% of these people insured how much is it going to cost us for premiums, if anyone may care to answer?

The SPEAKER PRO TEM: The Representative from Skowhegan, Representative Richardson has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Scarborough, Representative Clough.

Representative CLOUGH: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I think that Representative Kaelin is on the right track. But, I think that we ought not to pass this legislation to get there because this makes the commitment go to 100%.

I did some work on this a couple of years ago and I believe that with what we spend right now for state employee and teacher healthcare, if we went to between 65% and 75% you could get the parity and it would be revenue neutral. I think that

that is what you ought to be thinking about. One hundred percent is too high, 45% is too low. We should be talking about getting to somewhere between 65% and 75%, something that we can afford. Let's defeat this bill and move forward with a different plan.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Rockland, Representative Mazurek.

Representative MAZUREK: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I agree with my good colleague across the aisle, Representative Davis that this bill shows the teachers that this body is at least thinking of them. If we don't do something for them just by the very fact that taking it away at this time would be a slap in the face to the thousands of retired teachers in this state.

We are talking about how the future of our state lies with our children and how the future of the country lies with our children. We entrust our children to teachers everyday and yet we kid around and when they need it the most we turn our backs on these people. I think that it is time that we stood up and at least make a gesture on their behalf. I would hope that you would support this piece of legislation and go forward with it. If we don't have the money right now then maybe we can get it in the future but let's not show them that we don't care by taking it off the table. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Presque Isle, Representative Fischer.

Representative FISCHER: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I would just remind the good Representative from Rockport, Representative Bowen when he asks about how we would pay for this' that many of us in this body have voted to increase teachers' retirement in the last two or three months. We voted for it on the last budget where we gave it a 5% increase for teachers' retirement. Thank you Mr. Speaker.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Sanford, Representative Bowles.

Representative BOWLES: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I appreciate the sentiments that are being expressed and the Representative from Rockland is absolutely right when he says that we want to do the right thing for teachers and we are thinking of them. But, thinking of them doesn't give them any more money in their pocket. Thinking of them is not going to help them buy groceries or make their car payments. The fact of the matter is that we are going to be criticized whichever way we vote on this bill. If you vote for it you are going to be criticized because you don't fund it, and if you vote against it you are going to be criticized because you apparently don't care. I submit to you that that is not true because this is really a question of whether or not we have an honest and sincere intent in wanting to help retired teachers. Until it is demonstrated to me that we are sincere in that intent I am not going to vote for this and vote on a false promise.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Fort Kent, Representative Jackson.

Representative JACKSON: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Being on the Labor Committee, which was the committee of jurisdiction on this bill, my intent was to fund this but unfortunately the Labor Committee doesn't control the purse strings, so it is down in Appropriations right now. My intention was to fund this and for future years I hope that Appropriations will fund it.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Hartland, Representative Stedman.

Representative STEDMAN: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I would remind

everyone that teachers are not state employees and there is no control by the state over the contracts that are signed to create the benefits so that it can determine the pay scale of teachers. Until they become state employees their matters should be handled separately and I don't believe that we have the funds right now to pay for a full health insurance benefit for teachers. Thank you.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Kennebunk, Representative Babbidge.

Representative **BABBIDGE**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. The salaries of teachers in this state if they were to become an issue are very modest. I teach in the summer time. For the last half of the summer I am a director of a tennis program and I am working with other teachers. Our pay scale is far lower than any other state's teachers and with southern New England we are 40% to 50% below. As far as the pay scale not being controlled by the state, I am afraid to say that teachers are not well served by the pay scale in Maine.

I want to support the good Representative from Falmouth, Representative Davis in his declaration of support for an incremental solution to this problem. If 100% funding should come before us right now without a mechanism to pay for that I, as a teacher, would vote against it, but the fact of the matter is that we owe teachers. It was this body that raided the Maine State Retirement system and has caused them that unfunded liability and I think that, even without that fact, we owe some parity on this issue. Thank you.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from South Portland, Representative Glynn.

Representative **GLYNN**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I think that this legislation is important because it puts into writing a commitment to equalize our commitment for retired benefits for the teachers, bringing them up to the level of state employees and it puts forward a timeline and an incremental measure and that is why I sponsored this legislation. Support of educators and teachers is a very bipartisan issue and it is something that I hope that we can support, putting into writing that commitment. It did receive the strong recommendation of the committee and with that in mind I would like to ask that the Clerk please read the committee report.

Representative **GLYNN** of South Portland **REQUESTED** that the Clerk **READ** the Committee Report.

The Clerk **READ** the Committee Report in its entirety.

The **SPEAKER PRO TEM**: A roll call has been ordered. The pending question before the House is Enactment. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 239

YEA - Adams, Annis, Ash, Austin, Babbidge, Barstow, Blanchard, Blanchette, Bliss, Brannigan, Brautigam, Brown R, Browne W, Bryant, Burns, Cain, Campbell, Canavan, Carr, Churchill, Collins, Craven, Cressey, Daigle, Davis G, Driscoll, Duchesne, Dugay, Dunn, Duplessie, Duprey, Eberle, Eder, Edgecomb, Faircloth, Farrington, Finch, Fischer, Fisher, Fitts, Fletcher, Glynn, Goldman, Greeley, Hall, Hamper, Hanley B, Hanley S, Harlow, Hogan, Hotham, Hutton, Jackson, Jacobsen, Jennings, Joy, Kaelin, Koffman, Lansley, Lerman, Lundeen, Makas, Marley, Marraché, Mazurek, McCormick, McFadden, McLeod, Merrill, Miller, Millett, Mills, Moody, Moore G, Moulton, Muse, Nass, Norton, Nutting, O'Brien, Ott, Paradis, Patrick, Pelletier-Simpson, Perry, Pilon, Pineau, Pingree, Pinkham, Piotti, Plummer, Rector, Richardson E, Rosen, Sampson, Saviello, Schatz, Seavey, Sherman, Shields, Smith N, Smith W, Sykes, Thomas, Thompson, Trahan, Tuttle, Twomey, Valentino, Walcott, Watson, Wheeler, Woodbury.

NAY - Berube, Bowen, Bowles, Cebra, Clough, Crosthwaite, Curley, Curtis, Emery, Flood, Jodrey, Lewin, Lindell, McKane, McKenney, Richardson M, Richardson W, Robinson, Stedman, Tardy.

ABSENT - Beaudette, Bierman, Bishop, Bryant-Deschenes, Clark, Crosby, Cummings, Davis K, Dudley, Gerzofsky, Grose, Marean, Percy, Richardson D, Rines, Vaughan, Webster, Mr. Speaker.

Yes, 113; No, 20; Absent, 18; Excused, 0.

113 having voted in the affirmative and 20 voted in the negative, with 18 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker Pro Tem and sent to the Senate.

The following items were taken up out of order by unanimous consent:

COMMUNICATIONS

The Following Communication: (S.C. 370)

**MAINE SENATE
122ND LEGISLATURE
OFFICE OF THE SECRETARY**

June 1, 2005

Honorable Millicent M. MacFarland

Clerk of the House

State House Station 2

Augusta, ME 04333

Dear Clerk MacFarland:

Please be advised the Senate today insisted and joined in the Committee of Conference on Resolve, To Transfer Ownership of Certain Public Reserved Lands to the Town of Allagash (H.P. 653) (L.D. 934).

Please be advised President Edmonds has appointed the following conferees on the part of the Senate:

Senator Nutting of Androscoggin

Senator Martin of Aroostook

Senator Raye of Washington

Sincerely,

S/Joy J. O'Brien

Secretary of the Senate

READ and ORDERED PLACED ON FILE.

The Following Communication: (S.C. 371)

**MAINE SENATE
122ND LEGISLATURE
OFFICE OF THE SECRETARY**

June 1, 2005

Honorable Millicent M. MacFarland

Clerk of the House

State House Station 2

Augusta, ME 04333

Dear Clerk MacFarland:

Please be advised the Senate today adhered to its previous action whereby it accepted the Minority Ought Not to Pass Report from the Committee on Education and Cultural Affairs on Bill "An Act To Restore Funding for the Reading Recovery Program" (H.P. 1138) (L.D. 1615).

Sincerely,

S/Joy J. O'Brien

Secretary of the Senate

READ and ORDERED PLACED ON FILE.

CONSENT CALENDAR
First Day

In accordance with House Rule 519, the following items appeared on the Consent Calendar for the First Day:

(S.P. 590) (L.D. 1608) Resolve, To Establish a Study Commission To Study Methods To Improve Ballot Access Committee on **LEGAL AND VETERANS AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-316)**

(S.P. 593) (L.D. 1611) Bill "An Act To Clarify That Certain Maine Landowner Liability Protection Laws Apply to Abandoned Railroad Corridors" Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-314)**

Under suspension of the rules, Second Day Consent Calendar notification was given.

There being no objection, the Senate Papers were **PASSED TO BE ENGROSSED as Amended** in concurrence.

The Chair laid before the House the following item which was **TABLED** earlier in today's session:

Bill "An Act Concerning the Measurement of Firewood"
(H.P. 1005) (L.D. 1441)

Which was **TABLED** by Representative SMITH of Monmouth pending **FURTHER CONSIDERATION**.

The House voted to **INSIST**.

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Kittery, Representative Wheeler who wishes to address the House on the record.

Representative **WHEELER**: If I was here I would have voted no on LD 1397. On LD 700, yes and LD 1613, yes and LD 1326, yes and LD 572, yes and LD 1075 yes. On LD 626, yes. On LD 32, yes. On LD 1638, no. On LD 1666, yes. Thank you Mr. Speaker

The **SPEAKER PRO TEM**: The Chair recognizes the Representative from Newfield, Representative Campbell.

Representative **CAMPBELL**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Mr. Speaker if I was present I would have voted yes on LD 653.

The House recessed until 2:30 p.m.

(After Recess)

The Speaker resumed the Chair.
The House was called to order by the Speaker.

The following items were taken up out of order by unanimous consent:

ENACTORS
Acts

An Act To Authorize a Tribal Commercial Track and Slot Machines in Washington County

(H.P. 1111) (L.D. 1573)
(C. "A" H-563)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed.

On motion of Representative GLYNN of South Portland, was **SET ASIDE**.

The same Representative **REQUESTED** a roll call on **PASSAGE TO BE ENACTED**.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The **SPEAKER**: A roll call has been ordered. The pending question before the House is Enactment. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 240

YEA - Annis, Ash, Berube, Bishop, Blanchard, Bliss, Bowles, Brannigan, Brown R, Browne W, Burns, Cain, Campbell, Churchill, Clark, Craven, Driscoll, Duchesne, Dugay, Duplessie, Duprey, Eberle, Eder, Edgecomb, Emery, Farrington, Fischer, Fisher, Fitts, Fletcher, Greeley, Grose, Hall, Hanley B, Hanley S, Harlow, Hotham, Hutton, Jackson, Jacobsen, Jennings, Joy, Kaelin, Koffman, Lerman, Lindell, Lundeen, Makas, Marean, Marley, Marraché, McCormick, McFadden, McLeod, Miller, Millett, Moody, Moulton, Muse, Nutting, O'Brien, Paradis, Patrick, Perry, Pineau, Pingree, Pinkham, Piotti, Richardson E, Richardson M, Richardson W, Rines, Robinson, Rosen, Sampson, Saviello, Schatz, Smith W, Sykes, Tardy, Thompson, Tuttle, Vaughan, Walcott, Watson, Webster, Mr. Speaker.

NAY - Adams, Austin, Babbidge, Barstow, Beaudette, Blanchette, Bowen, Brautigam, Cebra, Clough, Collins, Cressey, Cummings, Curley, Curtis, Daigle, Davis G, Dudley, Finch, Flood, Gerzofsky, Glynn, Goldman, Hamper, Hogan, Jodrey, Lansley, Lewin, McKane, McKenney, Merrill, Mills, Norton, Ott, Percy, Pilon, Plummer, Rector, Seavey, Shields, Stedman, Thomas, Trahan, Twomey, Wheeler, Woodbury.

ABSENT - Bierman, Bryant, Bryant-Deschenes, Canavan, Carr, Crosby, Crosthwaite, Davis K, Dunn, Faircloth, Mazurek, Moore G, Nass, Pelletier-Simpson, Richardson D, Sherman, Smith N, Valentino.

Yes, 87; No, 46; Absent, 18; Excused, 0.

87 having voted in the affirmative and 46 voted in the negative, with 18 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate. **ORDERED SENT FORTHWITH**.

ENACTORS

Emergency Measure

An Act To Reestablish the Milk Handling Fee
(H.P. 996) (L.D. 1432)
(C. "A" H-602)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 115 voted in favor of the same and 15 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH**.

CONSENT CALENDAR

First Day

In accordance with House Rule 519, the following items appeared on the Consent Calendar for the First Day:

(S.P. 344) (L.D. 1004) Bill "An Act To Amend Certain Fish and Wildlife Laws" (EMERGENCY) Committee on **INLAND FISHERIES AND WILDLIFE** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-317)**

(H.P. 652) (L.D. 933) Bill "An Act To Amend the Maine Life and Health Insurance Guaranty Association Act" Committee on **INSURANCE AND FINANCIAL SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-621)**

Under suspension of the rules, Second Day Consent Calendar notification was given.

There being no objection, the Senate Paper was **PASSED TO BE ENGROSSED as Amended** in concurrence and the House Paper was **PASSED TO BE ENGROSSED as Amended** and sent for concurrence.

UNFINISHED BUSINESS

The following matter, in the consideration of which the House was engaged at the time of adjournment yesterday, had preference in the Orders of the Day and continued with such preference until disposed of as provided by House Rule 502.

An Act Relating to the Northern New England Passenger Rail Authority (EMERGENCY)

(H.P. 380) (L.D. 505)

(S. "A" S-192 to C. "A" H-362)

TABLED - May 23, 2005 by Representative MARLEY of Portland. PENDING - PASSAGE TO BE ENACTED.

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 129 voted in favor of the same and 2 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate. **ORDERED SENT FORTHWITH.**

The Chair laid before the House the following item which was **TABLED** earlier in today's session:

HOUSE DIVIDED REPORT - Majority (7) Ought to Pass as Amended by Committee Amendment "A" (S-306) - Minority (6) Ought Not to Pass - Committee on TAXATION on Bill "An Act To Fully Fund the Homestead Exemption"

(S.P. 602) (L.D. 1625)

Which was **TABLED** by Representative **WOODBURY** of Yarmouth pending **ACCEPTANCE** of either Report.

Representative **WOODBURY** of Yarmouth moved that the House **ACCEPT** the Majority **Ought to Pass as Amended Report**.

Representative **CLOUGH** of Scarborough **REQUESTED** a roll call on the motion to **ACCEPT** the Majority **Ought to Pass as Amended Report**.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The **SPEAKER**: A roll call has been ordered. The pending question before the House is **Acceptance of the Majority Ought to Pass as Amended Report**. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 241

YEA - Annis, Ash, Austin, Babbidge, Barstow, Berube, Bishop, Blanchard, Brannigan, Brautigam, Brown R, Browne W,

Burns, Campbell, Carr, Cebra, Churchill, Clark, Clough, Collins, Craven, Cresse, Curley, Curtis, Daigle, Davis G, Driscoll, Duchesne, Dugay, Dunn, Duprey, Eberle, Eder, Edgecomb, Emery, Faircloth, Farrington, Finch, Fischer, Fisher, Fitts, Fletcher, Gerzofsky, Glynn, Greeley, Grose, Hall, Hamper, Hanley B, Hanley S, Harlow, Hotham, Jackson, Jacobsen, Jennings, Joy, Kaelin, Koffman, Lansley, Lindell, Lundeen, Marley, Marraché, McCormick, McFadden, McKane, McLeod, Merrill, Miller, Moody, Moulton, Nass, Nutting, Ott, Paradis, Patrick, Perry, Pingree, Pinkham, Piotti, Plummer, Rector, Richardson E, Richardson M, Richardson W, Rines, Robinson, Rosen, Saviello, Schatz, Seavey, Sherman, Shields, Tardy, Thomas, Thompson, Trahan, Tuttle, Twomey, Vaughan, Walcott, Webster, Wheeler, Mr. Speaker.

NAY - Beaudette, Blanchette, Bliss, Bowen, Bowles, Bryant, Cain, Canavan, Cummings, Duplessie, Flood, Goldman, Hogan, Hutton, Jodrey, Lerman, Lewin, Makas, Marean, McKenney, Millett, Muse, Norton, O'Brien, Pelletier-Simpson, Percy, Pilon, Pineau, Sampson, Smith W, Stedman, Sykes, Watson, Woodbury.

ABSENT - Adams, Bierman, Bryant-Deschenes, Crosby, Crosthwaite, Davis K, Dudley, Mazurek, Mills, Moore G, Richardson D, Smith N, Valentino.

Yes, 104; No, 34; Absent, 13; Excused, 0.

104 having voted in the affirmative and 34 voted in the negative, with 13 being absent, and accordingly the Majority **Ought to Pass as Amended Report was ACCEPTED.**

The Bill was **READ ONCE. Committee Amendment "A" (S-306) was READ** by the Clerk and **ADOPTED.** The Bill was assigned for **SECOND READING** Friday, June 3, 2005.

The following items were taken up out of order by unanimous consent:

UNFINISHED BUSINESS

The following matters, in the consideration of which the House was engaged at the time of adjournment yesterday, had preference in the Orders of the Day and continued with such preference until disposed of as provided by House Rule 502.

HOUSE DIVIDED REPORT - Majority (7) Ought Not to Pass - Minority (6) Ought to Pass as Amended by Committee Amendment "A" (H-589) - Committee on TAXATION on Bill "An Act To Eliminate Estate Taxes on Family-owned Businesses"

(H.P. 321) (L.D. 436)

TABLED - June 1, 2005 (Till Later Today) by Representative WOODBURY of Yarmouth.

PENDING - ACCEPTANCE OF EITHER REPORT.

Representative **WOODBURY** of Yarmouth moved that the House **ACCEPT** the Majority **Ought Not to Pass Report**.

The **SPEAKER**: The Chair recognizes the Representative from Scarborough, Representative **Clough**.

Representative **CLOUGH**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This bill would eliminate the estate taxes on family owned businesses on essentially all estates and put us in compliance with the federal estate tax law. The bill changes the current estate tax law to conform with the federal code under the code as of December 31st 2003 for deaths occurring on or after January 1, 2005. Current Maine estate tax law calculates Maine estate taxes using the exclusion and related unified credit amounts in effect from the date of the death as reported in the code on December 31, 2000. This decoupling from the federal estate tax law creates gap estates that are taxed at the state level, but not at the federal level. This bill brings the unified credit into line with the current federal statute thus eliminating the gap estates.

Many of our Maine people are faced with the choice of forcing their children and grandchildren to pay tens or even hundreds of thousands of dollars in Maine estate tax or to decide to move to Florida and make that state their domicile. Often this change does not affect their lifestyles in any significant way. They must assure that they spend less than six months each year in Maine and given the lengths of our winters this isn't too difficult to do. I urge this body to remember that the state loses much more than the estate tax from these former residents. Had they remained, they probably would have paid automobile excise tax, other income tax revenue and on the advice of their lawyers they move their checking accounts and other banking business to Florida. They often move their investment management to Florida. They hire lawyers in Florida to prepare new estate plans and sever ties with Maine lawyers. They switch accountants, buy cars in Florida and take all of their spending power to another state. So I would ask you to vote in opposition to the pending motion and when the vote is taken I would request a roll call.

Representative CLOUGH of Scarborough **REQUESTED** a roll call on the motion to **ACCEPT** the Majority **Ought Not to Pass** Report.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The **SPEAKER**: The Chair recognizes the Representative from Bath, Representative Watson.

Representative **WATSON**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. Just two notes on this bill. First of all, the title is inaccurate. It states that it is "An Act to Eliminate Estate Tax on Family Owned Businesses". In fact, it is an act to eliminate estate taxes period. It is not simply family owned businesses. It is all estate taxes in terms of federal conformity and I also point out that the fiscal note on this for 2005 to 2006 is a mere \$9, 685,000 and from there it grows to \$12 million, \$14 million and \$15 million and on and on. Please keep those things in mind when you vote. Thank you.

The **SPEAKER**: A roll call has been ordered. The pending question before the House is Acceptance of the Majority Ought Not to Pass Report. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 242

YEA - Adams, Babbidge, Barstow, Blanchette, Bliss, Brannigan, Brautigam, Bryant, Cain, Canavan, Clark, Craven, Cummings, Driscoll, Duchesne, Dudley, Dugay, Dunn, Duplessie, Eberle, Eder, Faircloth, Farrington, Finch, Fischer, Fisher, Gerzofsky, Goldman, Grose, Hanley S, Harlow, Hogan, Hutton, Jackson, Koffman, Lerman, Makas, Marley, Marraché, Merrill, Miller, Mills, Moody, Norton, O'Brien, Paradis, Patrick, Pelletier-Simpson, Percy, Perry, Pilon, Pineau, Pingree, Piotti, Rines, Sampson, Schatz, Smith W, Thompson, Tuttle, Twomey, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

NAY - Annis, Ash, Austin, Beaudette, Berube, Bishop, Blanchard, Bowen, Bowles, Brown R, Browne W, Burns, Campbell, Carr, Cebra, Churchill, Clough, Collins, Cressey, Curley, Curtis, Daigle, Davis G, Davis K, Duprey, Edgecomb, Emery, Fitts, Fletcher, Flood, Glynn, Hall, Hamper, Hanley B, Hotham, Jacobsen, Jennings, Jodrey, Joy, Kaelin, Lansley, Lewin, Lindell, Marean, McCormick, McFadden, McKane, McKenney, McLeod, Millett, Moulton, Muse, Nass, Nutting, Ott, Pinkham, Plummer, Rector, Richardson E, Richardson M, Richardson W, Robinson, Rosen, Saviello, Seavey, Sherman, Shields, Stedman, Sykes, Tardy, Thomas, Trahan, Vaughan.

ABSENT - Bierman, Bryant-Deschenes, Crosby, Crosthwaite, Greeley, Lundeen, Mazurek, Moore G, Richardson D, Smith N, Valentino.

Yes, 67; No, 73; Absent, 11; Excused, 0.

67 having voted in the affirmative and 73 voted in the negative, with 11 being absent, and accordingly the Majority **Ought Not to Pass** Report was **NOT ACCEPTED**.

Subsequently, the Minority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-589)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Friday, June 3, 2005.

SENATE DIVIDED REPORT - Majority (8) Ought to Pass as Amended by Committee Amendment "A" (S-112) - Minority (5) Ought Not to Pass - Committee on LABOR on Bill "An Act to Promote Responsible Contracting Practices on State Projects"

(S.P. 172) (L.D. 546)

- In Senate, Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.

TABLED - May 18, 2005 (Till Later Today) by Representative SMITH of Van Buren.

PENDING - Motion of same Representative to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report.

The **SPEAKER**: The Chair recognizes the Representative from Holden, Representative Hall.

Representative **HALL**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I rise today in opposition to the pending motion. I will try to be very, very brief. This bill has the greatest of intentions, which is to provide health insurance for employees working on state funded projects, which is a laudable goal and is something that we should be doing. Unfortunately it's a very, very, very impossible thing to do. Many of these jobs go out to bid. Somebody will have a crew that generally works all year long on projects that are not state funded and they are going to work for three weeks on this project so their employees are going to come in and work just three weeks on a project and, because we have what is called the prevailing wage, we are going to try and just add about \$2.50 an hour to the prevailing wage rate and say that on state funded projects you have to pay the prevailing wage rate, plus the additional \$2.50 so the employee can then go out and pay for health insurance.

Unfortunately, when you are only going to have this extra \$2.50 in your paycheck for three weeks or four weeks or six weeks it is impossible for you to go out and buy health insurance, because you often have a waiting period and what is going to end up happening is that someone is going to get an extra \$2.50 an hour in their paycheck for two or three weeks and they are not going to go buy health insurance. They are going to buy something else. Maybe they will put the money in savings. The negative impact is that we are going to see a \$5 million fiscal note from the Department of Transportation alone and there is still some question as to whether this is going to affect schools and other municipalities. It is a great idea. Unfortunately it is something that just plain does not work the way that this bill is written.

When we see a \$5 million impact to the Department of Transportation what that means is that we are still going to spend the same amount of money, but we are going to do that many less projects. That means the taxpayers spend the same amount of money, but we get less roads built, we get less projects done and we have fewer people employed because the money is being given out to somebody that is already making as much as \$35 an hour and is now going to get \$37.50 an hour under the guise that he is going to use that money to by health insurance. It is a bid bill. It doesn't do what it purports to do. I urge you to follow my light and vote against the pending motion. Thank you.

The SPEAKER: The Chair recognizes the Representative from Van Buren, Representative Smith.

Representative SMITH: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This bill is a solution to the problem of having construction workers that do not have healthcare coverage. The amendment to the bill, which I would refer you to, is filing number (S-112). When you do look at this you will find, first of all, that the fiscal note for the highway fund is not \$5 million. The fiscal note for the highway fund is \$1.5 million. I think a closer reading of this bill will point that out.

The problem that we have is that we have an uneven playing field in public works jobs between those companies that offer health insurance to their employees and those that don't. The Bureau of General Services suggested this solution to the Labor Committee and the Labor Committee, on hearing their presentation, thought it made sense. What they told us was that by embedding the compensation for the cost of health insurance into the state wage and benefit rate, it caused all bidders on public projects to be treated alike because the wage and benefit rates are included in the bid documents and all contractors must compensate employees in accordance with the rate schedule. All bidders' labor costs will be calculated on the same schedule. All bidders are then on equal footing. There is no size or type of construction company that will be favored and competition would be retained. This is good for workers in the State of Maine. This will also keep the construction workers who don't have healthcare coverage that generally fall onto our Medicare system out of that system. I ask you to vote green on this.

Representative HALL of Holden REQUESTED a roll call on the motion to ACCEPT the Majority Ought to Pass as Amended Report.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER: A roll call has been ordered. The pending question before the House is Acceptance of the Majority Ought to Pass as Amended Report. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 243

YEA - Adams, Ash, Babbidge, Blanchard, Blanchette, Bliss, Brannigan, Brautigam, Bryant, Burns, Cain, Canavan, Clark, Craven, Cummings, Duchesne, Dudley, Dunn, Duplessie, Eberle, Eder, Faircloth, Fisher, Goldman, Grose, Hanley S, Harlow, Hogan, Hutton, Jackson, Jennings, Koffman, Lerman, Makas, Marley, Marraché, Miller, Moody, Norton, O'Brien, Paradis, Patrick, Pelletier-Simpson, Percy, Perry, Pineau, Pingree, Piotti, Rines, Smith W, Tuttle, Twomey, Watson, Webster, Wheeler, Mr. Speaker.

NAY - Annis, Austin, Barstow, Beaudette, Berube, Bishop, Bowen, Bowles, Brown R, Browne W, Campbell, Carr, Cebra, Churchill, Clough, Collins, Cressey, Curley, Curtis, Daigle, Davis G, Davis K, Driscoll, Dugay, Duprey, Edgecomb, Emery, Farrington, Finch, Fischer, Fitts, Fletcher, Flood, Glynn, Greeley, Hall, Hamper, Hanley B, Hotham, Jacobsen, Jodrey, Joy, Kaelin, Lansley, Lewin, Lindell, Lundeen, Marean, McCormick, McFadden, McKane, McKenney, McLeod, Merrill, Millett, Mills, Moulton, Muse, Nass, Nutting, Ott, Pilon, Pinkham, Plummer, Rector, Richardson E, Richardson M, Richardson W, Robinson, Rosen, Saviello, Schatz, Seavey, Sherman, Shields, Stedman, Sykes, Tardy, Thomas, Thompson, Trahan, Vaughan, Woodbury.

ABSENT - Bierman, Bryant-Deschenes, Crosby, Crosthwaite, Gerzofsky, Mazurek, Moore G, Richardson D, Sampson, Smith N, Valentino, Walcott.

Yes, 56; No, 83; Absent, 12; Excused, 0.

56 having voted in the affirmative and 83 voted in the negative, with 12 being absent, and accordingly Majority Ought to Pass as Amended Report was NOT ACCEPTED.

Subsequently, the Minority Ought Not to Pass Report was ACCEPTED in concurrence. ORDERED SENT FORTHWITH.

HOUSE DIVIDED REPORT - Majority (8) Ought Not to Pass - Minority (5) Ought to Pass as Amended by Committee Amendment "A" (H-572) - Committee on HEALTH AND HUMAN SERVICES on Bill "An Act To Prohibit Private Nonmedical Institutions from Passing Along the Service Provider Tax to Residents"

(H.P. 332) (L.D. 454)

TABLED - June 1, 2005 (Till Later Today) by Representative PINGREE of North Haven.

PENDING - Motion of same Representative to ACCEPT the Majority OUGHT NOT TO PASS Report.

The SPEAKER: The Chair recognizes the Representative from Auburn, Representative Shields.

Representative SHIELDS: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. LD 454 prohibits a private non-medical institution from including the 5% service provider tax in the bill of a resident beginning in October 1, 2005. Testimony was given by the officials of these private non-medical institutions and particularly from the assisted independent living centers regarding the cost they would have if they were unable to pass the tax along to private paying residents or they could not recoup it from the MaineCare program.

The Department of Health and Human Services testified against this bill noting that the tax was on the providers and not on the residents. Many residents testified and were fearful of losing private care if this 5% were added to this bill because of their marginal incomes. So, the more private paying clients in these assisted or independent living centers the greater the tendency of the owners to pass on and not absorb the 5% tax that the state will reimburse them for on MaineCare clients, but not on private clients.

We believe that your parents, your relatives, your loved ones and friends in these facilities should not be burdened with this tax. A number of these people are marginal in their ability to afford private care and this tax will push them over the edge. Please defeat the current motion and go to the Minority Report.

The SPEAKER: The Chair recognizes the Representative from Bowdoinham, Representative Hutton.

Representative HUTTON: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I hate to say it, but this is my bill and I recognize that there are many problems with it. Although it sounds like a good idea and would be it has further implications than just not passing along this particular tax and I would ask you to vote with the Ought Not to Pass side and kill my bill.

The SPEAKER: The Chair recognizes the Representative from North Haven, Representative Pingree.

Representative PINGREE: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. The good Representative from Bowdoinham said it best. She brought this to us. I will try to be somewhat brief on the PNMI tax which any of the members of Appropriations or Health and Human Services who dealt with this tax last year know just how complicated and somewhat convoluted that this tax is.

As all of us on the floor of the House, as the good Representative from Newport pointed out several times, we passed a bill to repeal the PNMI tax and I think that we all know that that is going to be difficult in this budget environment. I will

say that the PNMI tax, of all the different forms of tax and match that we do is the most difficult one. It has been somewhat difficult to implement. PNMI's are a diverse classification of service providers. They have diverse clientele. Some PNMI's have a high number of Medicaid clients and some of them have a small number of Medicaid clients, so this has been a difficult tax to implement. In some cases the providers of PNMI's, especially assisted living, are running a business just like anyone else. To tell them that because they are in debt and because they are having a difficult time making due they can't pass this tax on and that they must absorb it is, I think, not necessarily a fair thing to do to them, especially because we have put them into this position with this tax in the first place. The far more complicated thing about this bill is that the PNMI tax is structured as a service provider tax.

The service provider tax goes to telecommunications companies. It is on video rentals and there are a number of other different business groups under the service provider tax, including PNMI's. The Maine Revenue Service has given us advice that if this bill were to pass we would be saying to telecommunications companies and to video rental places among a number of other groups that they would also have to absorb the tax and they could not pass it on to people paying their cell phone bill and to people renting videos.

I know that this is a tough tax, but this bill unfortunately creates a fairly convoluted mess that would certainly throw this tax into question, would put a lot of different service providers in a tough and difficult place and with that, I would encourage you strongly to accept the Majority Ought Not to Pass Report.

Representative SHIELDS of Auburn **REQUESTED** a roll call on the motion to **ACCEPT** the Majority Ought Not to Pass Report.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The **SPEAKER**: The Chair recognizes the Representative from Eliot, Representative Lewin.

Representative **LEWIN**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I think that, with all due respect to Representative Pingree, she said it right. This bill is a convoluted mess. However, it is yet another tax that we chose to impose. We never should have done it, but we did do it. We did not exercise self-restraint, which is not a big surprise to me and I believe that these providers, the very same providers who are not being paid on time by our state government, should be allowed to pass that tax on. Believe you me, I am the last person that likes to say anything like that, but many of these people are on the edge and I do believe that they are absolutely entitled to pass it along and it continues to be a mistake for us to make the rules and then back off and say that we made a big mistake. It's unfortunate and it's a convoluted mess. It is one convoluted mess and we ought to do the right thing and permit business people to run their business in a businesslike way and if that means they have to pass that tax on then they should do it.

The **SPEAKER**: The Chair recognizes the Representative from Bowdoinham, Representative Hutton.

Representative **HUTTON**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I thought this would be a lighter debate and that we could look at this bill as to what it could possibly do rather than what it needs to do and I think that that is the key here. This bill doesn't really do what it needs to do only. It goes further than what it needs to do and I agree that the PNMI being passed along to certain people is not a great thing, but this is not the right vehicle to do it in. I don't want to make more of a mess than we already have. My intent was to help people, but this bill doesn't do that. It just creates a problem. I

would love to see people go back and work on it and make it the right way, but this is not the one to do it in. Thank you.

The **SPEAKER**: A roll call has been ordered. The pending question before the House is Acceptance of the Majority Ought Not to Pass Report. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 244

YEA - Adams, Annis, Ash, Austin, Babbidge, Barstow, Beaudette, Bishop, Blanchard, Blanchette, Bliss, Bowen, Bowles, Brannigan, Brautigam, Browne W, Bryant, Burns, Cain, Canavan, Carr, Churchill, Clark, Collins, Cummings, Daigle, Davis K, Duchesne, Dudley, Dugay, Dunn, Duplessie, Duprey, Eberle, Eder, Edgecomb, Faircloth, Farrington, Finch, Fischer, Fisher, Flood, Gerzofsky, Greeley, Grose, Hall, Hamper, Hanley B, Hanley S, Harlow, Hogan, Hutton, Jackson, Jennings, Joy, Kaelin, Koffman, Lerman, Lundeen, Makas, Marley, Marraché, McCormick, McKenney, McLeod, Merrill, Miller, Millett, Mills, Moody, Norton, Nutting, O'Brien, Paradis, Patrick, Pelletier-Simpson, Percy, Perry, Pilon, Pineau, Pingree, Pinkham, Piotti, Plummer, Richardson E, Richardson M, Richardson W, Rines, Rosen, Sampson, Saviello, Schatz, Smith W, Thomas, Thompson, Tuttle, Twomey, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

NAY - Berube, Brown R, Campbell, Cebra, Clough, Cressey, Curley, Curtis, Davis G, Driscoll, Emery, Fitts, Fletcher, Glynn, Hotham, Jacobsen, Lansley, Lewin, Lindell, Marean, McFadden, McKane, Moulton, Muse, Nass, Ott, Rector, Robinson, Seavey, Sherman, Shields, Stedman, Sykes, Tardy, Trahan, Vaughan.

ABSENT - Bierman, Bryant-Deschenes, Craven, Crosby, Crosthwaite, Goldman, Jodrey, Mazurek, Moore G, Richardson D, Smith N, Valentino.

Yes, 103; No, 36; Absent, 12; Excused, 0.

103 having voted in the affirmative and 36 voted in the negative, with 12 being absent, and accordingly the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

The Chair laid before the House the following item which was **TABLED** earlier in today's session:

HOUSE DIVIDED REPORT - Majority (6) **Ought Not to Pass** - Minority (4) **Ought to Pass as Amended by Committee Amendment "A" (S-304)** - Committee on **TAXATION** on Bill "An Act To Establish the Maine Taxpayers' Bill of Rights"

(S.P. 351) (L.D. 1011)

Which was **TABLED** by Representative **WOODBURY** of Yarmouth pending his motion to **ACCEPT** the Majority **Ought Not to Pass** Report.

Representative **CLOUGH** of Scarborough **REQUESTED** a roll call on the motion to **ACCEPT** the Majority **Ought Not to Pass** Report.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The **SPEAKER**: A roll call has been ordered. The pending question before the House is Acceptance of the Majority Ought Not to Pass Report. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 245

YEA - Adams, Ash, Babbidge, Barstow, Beaudette, Blanchard, Blanchette, Bliss, Brannigan, Brautigam, Bryant, Burns, Cain, Canavan, Clark, Craven, Cummings, Driscoll, Duchesne, Dudley, Dugay, Dunn, Duplessie, Eberle, Eder, Faircloth, Farrington, Finch, Fischer, Gerzofsky, Goldman, Grose, Hanley S, Harlow, Hogan, Hutton, Jackson, Jennings, Koffman, Lerman, Lundeen, Makas, Marley, Marraché, Merrill, Miller,

Millett, Mills, Moody, Norton, O'Brien, Paradis, Patrick, Pelletier-Simpson, Percy, Perry, Pilon, Pineau, Pingree, Piotti, Rines, Sampson, Saviello, Schatz, Smith W, Thompson, Tuttle, Twomey, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

NAY - Annis, Austin, Berube, Bishop, Bowen, Bowles, Brown R, Browne W, Campbell, Carr, Cebra, Churchill, Clough, Collins, Cressey, Curley, Curtis, Daigle, Davis G, Davis K, Duprey, Edgecomb, Emery, Fitts, Fletcher, Flood, Glynn, Greeley, Hall, Hamper, Hanley B, Hotham, Jacobsen, Jodrey, Joy, Kaelin, Lansley, Lewin, Lindell, Marean, McCormick, McFadden, McKane, McKenney, McLeod, Moulton, Muse, Nass, Nutting, Ott, Pinkham, Plummer, Rector, Richardson E, Richardson M, Richardson W, Robinson, Rosen, Seavey, Sherman, Shields, Stedman, Sykes, Tardy, Thomas, Trahan, Vaughan.

ABSENT - Bierman, Bryant-Deschenes, Crosby, Crosthwaite, Fisher, Mazurek, Moore G, Richardson D, Smith N, Valentino.

Yes, 74; No, 67; Absent, 10; Excused, 0.

74 having voted in the affirmative and 67 voted in the negative, with 10 being absent, and accordingly the Majority **Ought Not to Pass** Report was **ACCEPTED** in concurrence.

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH**.

The Chair laid before the House the following item which was **TABLED** earlier in today's session:

HOUSE DIVIDED REPORT - Majority (10) **Ought to Pass as Amended by Committee Amendment "A" (H-603)** - Minority (3) **Ought Not to Pass** - Committee on **TAXATION** on Bill "An Act To Adopt the Streamlined Sales and Use Tax Agreement"

(H.P. 747) (L.D. 1094)

Which was **TABLED** by Representative **WOODBURY** of Yarmouth pending his motion to **ACCEPT** the Majority **Ought to Pass as Amended Report**.

Representative **CLOUGH** of Scarborough **REQUESTED** a roll call on the motion to **ACCEPT** the Majority **Ought to Pass as Amended Report**.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The **SPEAKER**: A roll call has been ordered. The pending question before the House is Acceptance of the Majority **Ought to Pass as Amended Report**. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 246

YEA - Adams, Ash, Babbidge, Barstow, Blanchard, Blanchette, Bliss, Brannigan, Brautigam, Bryant, Burns, Cain, Clark, Craven, Cummings, Davis K, Driscoll, Duchesne, Dudley, Dugay, Dunn, Duplessie, Eberle, Eder, Faircloth, Farrington, Finch, Fischer, Gerzofsky, Goldman, Grose, Hanley B, Hanley S, Harlow, Hogan, Hutton, Jennings, Kaelin, Koffman, Lerman, Lundeen, Makas, Marley, Marraché, McCormick, Merrill, Miller, Millett, Mills, Moody, Muse, Norton, O'Brien, Paradis, Patrick, Pelletier-Simpson, Percy, Perry, Pilon, Pineau, Pingree, Piotti, Rines, Sampson, Saviello, Schatz, Smith W, Thompson, Tuttle, Twomey, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

NAY - Annis, Austin, Berube, Bishop, Bowen, Bowles, Brown R, Browne W, Campbell, Carr, Cebra, Churchill, Clough, Collins, Cressey, Curley, Curtis, Daigle, Davis G, Duprey, Edgecomb, Emery, Fitts, Fletcher, Flood, Glynn, Greeley, Hall, Hamper, Hotham, Jackson, Jacobsen, Jodrey, Joy, Lansley,

Lewin, Lindell, Marean, McFadden, McKane, McKenney, McLeod, Moulton, Nass, Nutting, Ott, Pinkham, Plummer, Rector, Richardson E, Richardson M, Richardson W, Robinson, Rosen, Seavey, Sherman, Shields, Stedman, Sykes, Tardy, Thomas, Trahan, Vaughan.

ABSENT - Beaudette, Bierman, Bryant-Deschenes, Canavan, Crosby, Crosthwaite, Fisher, Mazurek, Moore G, Richardson D, Smith N, Valentino.

Yes, 76; No, 63; Absent, 12; Excused, 0.

76 having voted in the affirmative and 63 voted in the negative, with 12 being absent, and accordingly the Majority **Ought to Pass as Amended Report** was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-603)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Friday, June 3, 2005.

The Chair laid before the House the following item which was **TABLED** earlier in today's session:

HOUSE DIVIDED REPORT - Majority (8) **Ought Not to Pass** - Minority (5) **Ought to Pass as Amended by Committee Amendment "A" (H-604)** - Committee on **TAXATION** on Bill "An Act To Impose a Gross Receipts Tax on 'Big Box' Stores"

(H.P. 1094) (L.D. 1553)

Which was **TABLED** by Representative **WOODBURY** of Yarmouth, pending **ACCEPTANCE** of either Report.

Representative **CLARK** of Millinocket moved that the House **ACCEPT** the Minority **Ought to Pass as Amended Report**.

The **SPEAKER**: The Chair recognizes the Representative from Scarborough, Representative **CLOUGH**.

Representative **CLOUGH**: The attempt of this bill, so stated in the hearings, was to get at Wal-Mart.

The **SPEAKER**: The Chair recognizes the Representative from Augusta, Representative **Lerman**.

Representative **LERMAN**: Mr. Speaker, point of order.

The **SPEAKER**: The Representative may proceed.

Representative **LERMAN**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. Representative **CLOUGH** is debating the **Ought Not to Pass Report** and is not debating the motion on the floor.

On **POINT OF ORDER**, Representative **LERMAN** of Augusta asked the Chair if the remarks of Representative **CLOUGH** of Scarborough were germane to the pending question.

The **SPEAKER**: The motion on the floor is the Minority **Ought to Pass as Amended by Committee Amendment "A" Report**, but what is **Germaine** to the argument is why you would be opposed to it.

Representative **LERMAN**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. The substance of what the Representative is discussing is not the substance of the amendment. It is not the substance of the bill as amended and as suggested.

The **SPEAKER**: The Chair will indicate that the debate is, with respect to the **Ought to Pass as Amended by Committee Amendment "A" Report** and also germane and relevant to the debate is anything or any reason why one would be opposed to it. The Representative may proceed.

The Chair reminded Representative **CLOUGH** of Scarborough to stay as close as possible to the pending question.

Representative **CLOUGH**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I would like to continue. This would also affect Hannaford, Shaw's and other large stores and I am opposed to having a gross receipts tax that

is targeted at a certain segment of our businesses in this state. I think that it is a bad idea and I think that we should vote this down and I urge you to vote against the pending motion and to move on to the Ought Not to Pass and, Mr. Speaker, I would request a roll call.

Representative CLOUGH of Scarborough **REQUESTED** a roll call on the motion to **ACCEPT** the Minority **Ought to Pass as Amended Report**.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The **SPEAKER**: The Chair recognizes the Representative from Augusta, Representative Lerman.

Representative **LERMAN**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I would like to start by simply clarifying some of the points made by my good friend, Representative Clough. The original bill was, in fact a gross receipts tax. As amended it is a very different bill, which simply calls for a collection of information. Let me give you the background behind this.

We live in changing times. As many of you know, here in the United States, including Maine, we have a system whereby most people secure their health insurance through their employer. By the way, we are the only developed country in the world that does that. All of the developed countries in the world provide health insurance as a matter of being a citizen of that country. In this country we have an entirely different approach as to how people get their health insurance. What is happening though is that these are changing times. These days the number of people who have access to health insurance through their employment is decreasing and as a result is creating more and more of a burden on MaineCare and other programs that we publicly fund.

In essence, for those companies that choose not to provide health insurance to their employees or who make it difficult or expensive for that to be the case, then more and more of those people are being covered through what are essentially tax payer dollars. This is an issue that has been a major concern in a number of other states in this country. In California they have estimated that the cost of providing health insurance to folks who don't get it through their employment is somewhere around \$90 million a year. In the case of Massachusetts it is somewhere around \$50-million to \$60 million a year.

Leading the change in this country around this shift away from employer-based health insurance are some of the national and international corporations. In particular in this particular situation it is big boxes that typically do not provide the same level of benefits, as has been the case historically. Now, I don't quibble that they are doing this legitimately under the law, but they are creating a new standard that is very dangerous and that could really jeopardize hundreds of thousands, if not millions of people in our country because they are no longer going to have access to health insurance.

The original bill was probably a little bit ahead of the curve. It was saying that we know from practices in other states and from data collected in other states that this is a huge problem. That, in fact, taxpayers are subsidizing health insurance and other benefits to employees, people who are employed on a full time basis but simply cannot afford things like health insurance. So, I acknowledge that I was a little ahead of the curve by proposing the gross receipts tax which was intended to reimburse the state and taxpayers of the state for the subsidy that we are providing. What this bill does is amend it. It simply says let's collect some data so that we can have a thoughtful discussion of where we go from here in a very important policy area. That is what I had proposed and that is what I hope you will support in voting in support of the Majority Ought to Pass as Amended Report. This

way we can collect information to find out how many people are receiving health insurance and other assistance through state programs even as full time employees.

Just so you know the threshold in the amendment is for the state to identify those businesses that have 50 more members of their staff who are recipients of MaineCare, TANIF, AFDC and other public benefits. So, this is really intended to give us more data to use as the basis for wrestling with what will become an enormous public policy issue for us. Thank you Mr. Chair.

The **SPEAKER**: The Chair recognizes the Representative from Arundel, Representative Daigle.

Representative **DAIGLE**: Mr. Speaker, may I pose a question through the Chair?

The **SPEAKER**: The Representative may pose his question.

Representative **DAIGLE**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This is very interesting to me. I am reading the amendment here too, so I know that I am on the right target. First of all, I don't know if it is possible or legal for an employer to even ask their employees if they are receiving public assistance grants? When I had employees I did not think that it was appropriate or legal for me to ask them if they are receiving food stamps, TANIF and other things. I am not sure how that can be identified? Secondly, I see a potential consequence of this bill that I think I like a lot, which is the ability to find all the welfare cheats out there who, in fact, have jobs and, in fact, have health insurance and are misrepresenting their income to the state and stealing our money. Does this bill give us a wonderful vehicle to do that also?

The **SPEAKER**: The Representative from Arundel, Representative Daigle has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Bath, Representative Watson.

Representative **WATSON**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. In answer to the distinguished Representative from Arundel's two questions. First of all the employers are not the ones that are being asked to ask their employees. It is the provider of the state assistance, either DHHS or DOL that is asked to provide that information on its recipients as to how they are employed, where they are employed. Frankly, if the distinguished Representative from Arundel wants a good reason for voting for this bill by saying that it might identify welfare cheats, you know which button to light up. This bill simply asks DOL and DHHS to take a look at the people that it is providing welfare assistance to through Medicaid, MaineCare, and food stamps and find out if they are employed and if so, by whom and report back. That is all that it is doing at this point. Thank you Mr. Speaker.

The **SPEAKER**: The Chair recognizes the Representative from Lincoln, Representative Carr.

Representative **CARR**: Mr. Speaker, may I pose a question through the Chair?

The **SPEAKER**: The Representative may pose his question.

Representative **CARR**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. As I read the title on the amendment (H-604) it is, "An Act to Impose a Gross Receipts Tax on Big Box Stores". However, I am now hearing information on collecting information and it does not seem to match what the title is. I am just wondering if the title matches the Amendment?

The **SPEAKER**: The Representative from Lincoln, Representative Carr has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Augusta, Representative Lerman.

Representative **LERMAN**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. In response to the

good Representative's question, the amendment to the bill changes the title of the bill to "An Act Regarding State Costs for Public Assistance to Working Families" so it really gets away from the whole notion of a gross receipts tax which is no longer relevant given the amendment to the bill.

The SPEAKER: The Chair recognizes the Representative from Frankfort, Representative Lindell.

Representative LINDELL: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. This is a classic example of why committees should stick to issues that are germane to the topics that they are assigned to oversee. The fact of the matter is that had this matter that we are considering been assigned to the proper committee, the Insurance and Financial Services Committee or perhaps the Health and Human Services Committee, those committee members would have clearly known that the Dirigo Health plan already tracks this information. In fact, the Dirigo Health plan has eight categories of enrollees. The first category, Category A is Medicaid recipients. Since the Dirigo Health plan is a plan offered through employers and it tracks all of this data very clearly we have the numbers in Mr. Speaker and we, in fact, just received a report from the Dirigo Health Agency. Under Category A, out of over 6000 enrollees in Dirigo Health, there are 86 who are eligible for Medicaid. So this bill is completely unnecessary. We should vote Ought Not to Pass.

The SPEAKER: The Chair recognizes the Representative from North Haven, Representative Pingree.

Representative PINGREE: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. In response to the good Representative who just spoke I believe that this bill is most targeted at MaineCare or Medicare recipients, of which there are currently, as everybody in this body is aware, close to 250,000 Medicaid recipients in the State of Maine. We don't currently know and we do regular checks every six months and some people more frequently to check and make sure that they are still income eligible for Medicaid, but the form does not currently include who your employer is if you are employed.

We recently debated a bill around general assistance and prior to that we passed a bill that asked the state to start collecting more information in regards to general assistance. We were talking about how we wanted to know where people were coming from and if they were taking advantage of the system. I think that this resolve, which this bill has now turned into and is asking the Department to collect more information is not that far off. It would give us information as to who Medicaid recipients work for, if they are working, who their employers are and it would give us useful information in dealing with what is a very significant public policy problem in the state of Maine and that is that employers are dropping health insurance. We are the number one state for employers that are dropping their health insurance for their employees and I am not arguing that employers who do this are bad. There are a lot of good reasons why health insurance has become too expensive but this bill has now been turned into a resolve that simply will give us more information, by which we can make decisions. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Waldoboro, Representative Trahan.

Representative TRAHAN: Mr. Speaker, may I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative TRAHAN: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. Could anyone in here tell me what benefit it would be to get information on people who are already receiving healthcare? If you are getting information

on who is on the Medicaid system they are already getting healthcare so what is the intent here. What value is there in knowing that? The second question I would like to ask is wouldn't this scare people that are trying to get out of the Medicaid system and go to work? If they think that they are going to lose their benefits and the state might get that information it might discourage them from going to work and I am just wondering if you could answer those two questions please?

The SPEAKER: The Representative from Waldoboro, Representative Trahan has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Augusta, Representative Lerman.

Representative LERMAN: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. A response to Representative Trahan's questions. First of all, in terms of people being intimidated as a result of the questions being asked, there is no evidence from other states that indicates that that would be the case. It is just part of the application process so there is no reason why that particular question would be distinguished from any other questions that are asked of people that would apply for certain programs.

Again, in terms of the broader issue, the broader issue is just looking at the way larger businesses manage their affairs and the extent to which taxpayers subsidize their operations and, subsequently, their profitability. The whole idea is to collect information to get a better sense of whether or not we want to continue to support that kind of practice.

Let me say this, I really think it is a matter of understanding how corporations view their responsibility as members of our communities. I wasn't going to say this but let me just mention the shift that I have noticed all right? When we mostly got our goods and services through small local businesses the relationship between those businesses and our communities was, in fact, a recognizable relationship. You knew who people were. You had contact with them. There was a sense of commitment to the people in the community and a sense of commitment to the community as a whole.

Having been sort of a rugrat - I grew up on Main Street in Biddeford shining shoes at my parent's cobbler shop - we knew who all the people were that worked up and down Main Street and there was sense of taking care of ourselves as a family and a real sense of connection and community. What is happening is the result of more goods and services being provided to us by larger corporations who don't have the same connection. The basis for that relationship now is more contractor law.

I don't begrudge that a lot of out of state corporations are, or international corporations are only doing what is required by law, but I think that we need to look at how those laws influence corporate behavior and whether or not we are beginning to see a real shift in where the funding for health insurance comes from. I think that that is a valuable and legitimate public policy issue that has already been debated in other states. I hope that gets to the point of the question raised by Representative Trahan and I thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Scarborough, Representative Clough.

Representative CLOUGH: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I was just looking at the report that I have from the hearing and I would note that there was only one individual that testified in favor of this legislation and there were several business people, small business and large business, that testified in opposition to it. I also call your attention to the fact that this amendment that has replaced the bill clearly targets the large businesses and we have heard mention of them several times in conversation here today.

If we are concerned about people who do not have healthcare I would suggest that there are probably a lot more people without healthcare that are working for some small businesses than there are for large businesses and we should not make this exclusion. Again, I urge you to vote against the pending motion.

The SPEAKER: The Chair recognizes the Representative from Freeport, Representative Webster.

Representative WEBSTER: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Mr. Speaker, I am on the Health and Human Services Committee and I for one would be very interested to see this information and hope that we are able to empower the Health and Human Services to provide the information to us.

I also live in Freeport and L.L. Bean is a proud corporate citizen of our community. I have not spoken with them regarding this bill, but my guess Mr. Speaker, is that they will be very proud to provide that information and I know that Shaw's is in my town and Hannaford Brothers is down the street in the next town. I can't help but believe that they would be very proud of their record and I can't imagine that any organization that is proud of their record would be at all disturbed by seeing that information go public. So, I don't really understand what the issue is and why we wouldn't want to know this information for policy purposes. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from West Gardiner, Representative McCormick.

Representative MCCORMICK: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. When this bill came to us via the good Representative from Augusta it was clearly an attack on Wal-Mart and big box stores. Even though Augusta is the poster child for how many and how rapidly we can attract those big businesses to our city. The implications of this bill were that somehow the big box stores are responsible for our insurance problems. Somehow big box stores don't pay the same level of benefits or care as the smaller businesses in our area.

As the resolve now exists what we are trying to do is continue the attack on big box stores. We are only going to collect the data from big box stores in an attempt to prove what his assumption was in the beginning, which was that they are somehow responsible for our problems. I might support this effort, the collection of data, if it also included the smaller businesses so that in the end we can really say if they are worse than our smaller businesses and are the McDonalds', The Burger Kings, and The Dairy Queens doing a better job than these big box stores. So, we are not going to have the data to be able to compare and state definitely whether or not there worse or maybe better than what we have as they come here. I am going to vote against the pending motion. Thank you very much.

Representative GLYNN of South Portland asked the chair to rule if the Amendment was properly before the body pursuant to House Rule 107.

The SPEAKER: The Chair recognizes the Representative from South Portland, Representative Glynn.

Representative GLYNN: Mr. Speaker, point of order.

The SPEAKER: The Representative may proceed.

Representative GLYNN: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I have read over this committee amendment, Committee Amendment (H-604) and I have also read over LD 1553 and I want to know of this if this Minority Report is properly before the body with regard to germaneness.

The SPEAKER: The Chair's ruling is that the Committee Amendment "A" is not properly before the body. It is not germane to the original bill and as a result of that ruling we will

move forward past item 6-7. That is the Chair's ruling. The ruling of the Chair can be appealed. The Chair recognizes the Representative from Augusta, Representative Lerman.

Subsequently, the Chair RULED the Amendment was not properly before the body pursuant to House Rule 107.

Representative LERMAN of Augusta APPEALED the RULING OF THE CHAIR.

Representative LERMAN: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I am not familiar with the rules but I will take advantage of the opportunity to object to the ruling and ask for it to be reconsidered. Thank you Mr. Speaker. Mr. Speaker I request a roll call.

The same Representative REQUESTED a roll call on APPEALING the RULING OF THE CHAIR.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER: The Chair recognizes the Representative from Freeport, Representative Webster.

Representative WEBSTER: Mr. Speaker, point of clarification.

The SPEAKER: The Representative may proceed.

Representative WEBSTER: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Mr. Speaker, could you explain the reason that the legislation we were discussing is not properly before this House and what actions are available in order to bring this legislation back to the House. Thank you Mr. Speaker.

The SPEAKER: The ruling of the Chair has been upheld. The original bill was to impose a gross receipts tax on big box stores. The bill itself and in particular the summary of the bill outlined that two thirds of the amount of the gross receipts tax was to go for Dirigo Health and one third to a Small Enterprise Growth Fund Account. The committee amendment replaced the bill. The committee amendment states that there is a study to be conducted. It amends the bill by Committee Amendment "A" and provides that the Department of Health prepare and submit a report annually to the Legislature providing information about employers in the state that have 50 or more employees who are recipients of certain public assistance benefits. The amendment has nothing to do with the original bill. It is therefore, not germane.

The checklist with respect to the test for germaneness asks if the amendment deals with a different topic or subject. If so it is not germane. Does the amendment unreasonably or unduly expand the original subject matter of the bill? In the Chair's opinion, yes. Would the amendment introduce an independent question? In the Chair's opinion, yes. Is the amendment relevant, appropriate and in natural logical sequence to the subject matter of the original proposal? The answer in the Chair's opinion is no. Would the amendment change the purpose scope or object of the original bill? In the chair's opinion, it would. Would the amendment change one type of motion into another type? The answer is that it would. I could go on, but any one of those matters would make the bill not germane. That is the checklist and the test for germaneness and I encourage all of you to check Mason's.

The second issue is could something be done to revive the bill? There are a number of opportunities to do so. You could commit the bill back and somehow make it more relevant if that is what the body decides to do.

The SPEAKER: A roll call has been ordered. The pending question before the House is Acceptance of the Ruling of the Chair as it relates to the germaneness of Committee Amendment "A" (H-604). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 247

YEA - Adams, Canavan, Driscoll, Eder, Lerman, Twomey.

NAY - Annis, Ash, Austin, Babbidge, Barstow, Beaudette, Bishop, Blanchard, Blanchette, Bliss, Bowen, Bowles, Brannigan, Brautigam, Brown R, Browne W, Bryant, Burns, Cain, Campbell, Carr, Cebra, Churchill, Clark, Clough, Collins, Craven, Cressey, Cummings, Curley, Curtis, Daigle, Davis G, Davis K, Duchesne, Dudley, Dugay, Dunn, Duplessie, Duprey, Eberle, Edgecomb, Emery, Faircloth, Farrington, Finch, Fischer, Fisher, Fitts, Fletcher, Flood, Gerzofsky, Glynn, Goldman, Greeley, Grose, Hall, Hamper, Hanley B, Hanley S, Harlow, Hogan, Hotham, Hutton, Jacobsen, Jennings, Jodrey, Joy, Kaelin, Koffman, Lansley, Lewin, Lindell, Lundeen, Makas, Marean, Marley, Marraché, McCormick, McFadden, McKane, McKenney, McLeod, Merrill, Miller, Millett, Mills, Moody, Moulton, Muse, Nass, Norton, Nutting, O'Brien, Ott, Paradis, Patrick, Pelletier-Simpson, Percy, Perry, Pilon, Pineau, Pingree, Pinkham, Piotti, Plummer, Rector, Richardson E, Richardson M, Richardson W, Robinson, Rosen, Sampson, Saviello, Schatz, Sherman, Shields, Smith W, Stedman, Sykes, Tardy, Thomas, Thompson, Trahan, Tuttle, Vaughan, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

ABSENT - Berube, Bierman, Bryant-Deschenes, Crosby, Crosthwaite, Jackson, Mazurek, Moore G, Richardson D, Rines, Seavey, Smith N, Valentino.

Yes, 6; No, 132; Absent, 13; Excused, 0.

6 having voted in the affirmative and 132 voted in the negative, with 13 being absent, and accordingly the **RULING OF THE CHAIR was SUSTAINED.**

Representative RICHARDSON of Brunswick moved that the Bill and all accompanying papers be **INDEFINITELY POSTPONED.**

On motion of Representative DUPLESSIE of Westbrook, **TABLED** pending the motion of Representative RICHARDSON of Brunswick to **INDEFINITELY POSTPONE** the Bill and all accompanying papers and later today assigned.

The Chair laid before the House the following item which was **TABLED** earlier in today's session:

HOUSE DIVIDED REPORT - Majority (7) Ought Not to Pass - Minority (6) Ought to Pass as Amended by Committee Amendment "A" (H-605) - Committee on TAXATION on Bill "An Act To Sunset Income Tax Checkoffs"

(H.P. 1133) (L.D. 1606)

Which was **TABLED** by Representative WOODBURY of Yarmouth, pending **ACCEPTANCE** of either Report.

Representative CLARK of Millinocket moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

The **SPEAKER**: The Chair recognizes the Representative from Scarborough, Representative Clough.

Representative **CLOUGH**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I would ask that you vote against the pending motion and move on to accept the Ought To Pass as Amended Report on this bill.

This bill as originally written was going to eliminate all tax check offs on the income tax form. All check offs for contributions to charities or contributions to political parties that are on the income tax form. One of the concerns was that they were growing in numbers and it has become a little bit unweildig because everybody came before us with good ideas that they would like to have us consider for adding their charity and looked into it and found that some charities were raising a significant amount of money and it was worthwhile and others were not. The cost of maintaining these accounts is somewhere between

\$5,000 and \$10,000 and some of the recipients were getting just that or less. So for that reason I would like for you to vote against the pending motion and let us move on to consider the Minority Report, which is a different approach and which would help us move toward a position where we can continue to support those charities and check offs that made sense and perhaps eliminate some of those that did not. Thank you. I request a roll call.

Representative **CLOUGH** of Scarborough **REQUESTED** a roll call on the motion to **ACCEPT** the Majority **Ought Not to Pass** Report.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The **SPEAKER**: A roll call has been ordered. The pending question before the House is Acceptance of the Majority Ought Not to Pass Report. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 248

YEA - Adams, Ash, Babbidge, Barstow, Beaudette, Blanchard, Blanchette, Bliss, Brannigan, Brautigam, Bryant, Burns, Cain, Canavan, Clark, Craven, Cummings, Driscoll, Duchesne, Dudley, Dugay, Dunn, Duplessie, Eberle, Eder, Faircloth, Farrington, Finch, Fischer, Fisher, Gerzofsky, Goldman, Grose, Hanley S, Harlow, Hogan, Hutton, Jennings, Koffman, Lerman, Lundeen, Makas, Marley, Marraché, Merrill, Miller, Mills, Norton, O'Brien, Paradis, Patrick, Pelletier-Simpson, Percy, Perry, Pilon, Pineau, Pingree, Piotti, Rines, Sampson, Saviello, Schatz, Seavey, Smith W, Thompson, Tuttle, Twomey, Walcott, Watson, Webster, Wheeler, Mr. Speaker.

NAY - Annis, Austin, Bishop, Bowen, Bowles, Brown R, Browne W, Campbell, Carr, Cebra, Churchill, Clough, Collins, Cressey, Curley, Curtis, Daigle, Davis G, Davis K, Duprey, Edgecomb, Emery, Fitts, Fletcher, Flood, Glynn, Greeley, Hall, Hamper, Hanley B, Hotham, Jacobsen, Jodrey, Joy, Kaelin, Lansley, Lewin, Lindell, Marean, McCormick, McFadden, McKane, McKenney, McLeod, Millett, Moody, Moulton, Muse, Nass, Nutting, Ott, Pinkham, Plummer, Rector, Richardson E, Richardson M, Richardson W, Robinson, Rosen, Sherman, Shields, Stedman, Sykes, Tardy, Thomas, Trahan, Vaughan, Woodbury.

ABSENT - Berube, Bierman, Bryant-Deschenes, Crosby, Crosthwaite, Jackson, Mazurek, Moore G, Richardson D, Smith N, Valentino.

Yes, 72; No, 68; Absent, 11; Excused, 0.

72 having voted in the affirmative and 68 voted in the negative, with 11 being absent, and accordingly the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

The following items were taken up out of order by unanimous consent:

**ENACTORS
Emergency Measure**

An Act To Create a Small Distillery Off-premises License
(S.P. 462) (L.D. 1335)
(C. "A" S-263)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 118 voted in favor of the same and 4 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act To Amend the Potato Industry Licensing Laws
(H.P. 1110) (L.D. 1572)
(C. "A" H-562)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 122 voted in favor of the same and 0 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act To Allow Lincoln and Sagadahoc Counties an Exemption from the Limitation on County Assessments
(H.P. 1176) (L.D. 1667)
(C. "A" H-537)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 115 voted in favor of the same and 16 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act To Exempt Internet Services from Auctioneer Licensure
(S.P. 618) (L.D. 1670)
(C. "A" S-259)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 117 voted in favor of the same and 1 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH**.

Emergency Measure

Resolve, Regarding Legislative Review of Chapter 920: Maine Model Building Energy Code, a Major Substantive Rule of the Public Utilities Commission
(H.P. 1127) (L.D. 1591)
(C. "A" H-510)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 118 voted in favor of the same and 2 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

Emergency Measure

Resolve, To Retain Maine's Theater Arts and Dance Teachers
(H.P. 1167) (L.D. 1656)
(C. "A" H-520)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 119 voted in favor of the same and

2 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

Emergency Measure

Resolve, Regarding Legislative Review of Chapter 11: PBX/Multiline Telephone System (MLTS) Requirements, a Major Substantive Rule of the Public Utilities Commission
(H.P. 1174) (L.D. 1665)
(C. "A" H-509)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 113 voted in favor of the same and 0 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH**.

Acts

An Act To Require Notification prior to Suspension of a Driver's License for a Nonmotor Vehicle Violation
(H.P. 460) (L.D. 627)
(C. "A" H-497)

An Act To Clarify the Laws Governing Agricultural Composting Operations
(S.P. 381) (L.D. 1064)
(C. "A" S-256)

An Act To Require Alcohol Retailers To Post Signs Regarding the Laws Governing Alcohol
(H.P. 738) (L.D. 1085)
(H. "A" H-485 to C. "A" H-455)

An Act To Promote Stability in Labor Relations
(H.P. 776) (L.D. 1123)
(C. "A" H-492)

An Act To Implement the Recommendations of the Legislative Youth Advisory Council
(H.P. 779) (L.D. 1136)

An Act To Amend the Laws Regulating Custom Vehicles
(H.P. 806) (L.D. 1163)
(C. "A" H-517)

An Act Regarding the Initiation of Cases of Murder and Class A, B and C Crimes in Superior Court by Complaint
(H.P. 866) (L.D. 1248)
(C. "A" H-498)

An Act Allowing Spirits Tasting Events
(H.P. 886) (L.D. 1289)
(C. "A" H-506)

An Act To Improve Funding for Telecommunications Relay Services
(H.P. 887) (L.D. 1290)
(C. "A" H-559)

An Act To Amend the Motor Vehicle Laws
(S.P. 468) (L.D. 1341)
(C. "A" S-255)

An Act To Implement Emergency Medical Dispatch Services for E-9-1-1 Calls
(H.P. 959) (L.D. 1373)
(C. "A" H-560)

An Act To Assist in the Investigation and Prosecution of Theft Offenses

(H.P. 973) (L.D. 1409)
(C. "A" H-499)

An Act To Address the Constitutionality of Maine's Resident-only Lobster License

(H.P. 985) (L.D. 1421)
(C. "A" H-544)

An Act To Simplify Implementation of the Maine Learning Results

(H.P. 988) (L.D. 1424)
(C. "A" H-554)

An Act To Make Minor Substantive Changes to the Tax Laws

(H.P. 1024) (L.D. 1462)
(S. "A" S-232 to C. "A" H-392)

An Act To Strengthen the Animal Welfare Laws

(H.P. 1036) (L.D. 1473)
(C. "A" H-502)

An Act To Improve Campaign Financing and Reporting and the Administration of the Maine Clean Election Act

(S.P. 518) (L.D. 1500)
(C. "A" S-264)

An Act To Implement Recommendations of the Family Law Advisory Commission

(H.P. 1054) (L.D. 1502)
(C. "A" H-500)

An Act To Amend the Laws Governing the Manufactured Housing Board

(S.P. 525) (L.D. 1509)
(C. "A" S-260)

An Act To Update Professional and Occupational Licensing Laws

(H.P. 1071) (L.D. 1524)
(C. "A" H-522)

An Act To Amend the Laws Concerning Registration of Engineers

(S.P. 537) (L.D. 1548)
(C. "A" S-257)

An Act To Expand the Powers of the Stonington Sanitary District

(H.P. 1169) (L.D. 1658)
(C. "A" H-561)

An Act To Amend the Law Governing the Department of Transportation's Contracting Authority

(H.P. 1173) (L.D. 1662)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed, **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Resolves

Resolve, Directing the Department of Education and the Department of Environmental Protection To Implement Procedures To Remove Hazardous Materials from Maine Schools

(H.P. 800) (L.D. 1157)
(C. "A" H-489)

Resolve, To Study the Establishment of a Controlled Substances Act for the State of Maine

(H.P. 819) (L.D. 1190)
(C. "A" H-521)

Resolve, Regarding Discharges from Hospitals

(H.P. 1002) (L.D. 1438)
(C. "A" H-557)

Resolve, Encouraging the Continuing Education of Physicians Regarding Disclosure of Confidential Medical Information

(H.P. 1105) (L.D. 1567)
(C. "A" H-501)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed, **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

SENATE PAPERS

Non-Concurrent Matter

An Act To Establish Harbor Master Standards and Training Requirements (MANDATE)

(S.P. 584) (L.D. 1603)
(C. "A" S-207)

Bill and accompanying papers **INDEFINITELY POSTPONED** in the House on June 1, 2005.

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-207) AS AMENDED BY SENATE AMENDMENT "A" (S-234)** thereto in **NON-CONCURRENCE**.

The House voted to **RECEDE AND CONCUR. ORDERED SENT FORTHWITH**.

ENACTORS

Emergency Measure

An Act To Ensure the Safety of Victims of Domestic Violence

(H.P. 712) (L.D. 1027)
(C. "A" H-531)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 115 voted in favor of the same and 7 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate. **ORDERED SENT FORTHWITH**.

Emergency Measure

An Act Regarding Access to Mental Health Services

(S.P. 411) (L.D. 1183)
(C. "A" S-279)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 122 voted in favor of the same and 0 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Acts

An Act To Amend the Charter of the York Sewer District

(S.P. 137) (L.D. 413)
(C. "A" S-281)

An Act To Transfer Responsibility from the Potato Marketing Improvement Committee to the Maine Potato Board

(S.P. 342) (L.D. 1002)
(C. "A" S-276)

An Act To Require a Criminal Background Check for the Initial Licensure of Emergency Medical Services Personnel

(H.P. 702) (L.D. 1018)
(C. "A" H-472)

An Act To Provide Uniform Voter Verification and Recount Requirements for Voting Machines

(H.P. 711) (L.D. 1026)
(H. "A" H-508 to C. "A" H-453)

An Act To Protect Maine Citizens from Lead Hazards that Harm Maine Children and Families

(H.P. 1077) (L.D. 1532)
(S. "A" S-275 to C. "A" H-542)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed, **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Resolves

Resolve, To Direct the State Board of Funeral Service To Consider the Need To Amend Its Rules with Regard to Licensed Funeral Establishments

(H.P. 736) (L.D. 1083)
(C. "A" H-525)

Resolve, To Study the Accessibility of Birth Certificates and Other Vital Records

(S.P. 416) (L.D. 1202)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed, **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH**.

CONSENT CALENDAR

First Day

In accordance with House Rule 519, the following items appeared on the Consent Calendar for the First Day:

(S.P. 624) (L.D. 1678) Bill "An Act To Replace the Interagency Task Force on Homelessness and Housing Opportunities with the Statewide Homeless Council" Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-320)**

(H.P. 737) (L.D. 1084) Bill "An Act To Make Dormancy Fees on Gift Cards Illegal" Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-624)**

(H.P. 768) (L.D. 1115) Bill "An Act To Facilitate Voting by Participants in the Address Confidentiality Program" Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-625)**

(H.P. 1027) (L.D. 1464) Bill "An Act To Amend the Laws Relating to Motorized Scooters, Motor-driven Cycles and Mopeds" (EMERGENCY) Committee on **TRANSPORTATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-626)**

(H.P. 1159) (L.D. 1647) Bill "An Act To Award Income Tax Credits for Boiler or Furnace Systems That Reduce or Eliminate Certain Pollutants" Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-628)**

Under suspension of the rules, Second Day Consent Calendar notification was given.

There being no objection, the Senate Paper was **PASSED TO BE ENGROSSED as Amended** in concurrence and the House Papers were **PASSED TO BE ENGROSSED as Amended** and sent for concurrence. **ORDERED SENT FORTHWITH**.

CONSENT CALENDAR

First Day

In accordance with House Rule 519, the following items appeared on the Consent Calendar for the First Day:

(S.P. 200) (L.D. 645) Bill "An Act To Promote the Commonsense Consumption of Food" Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-324)**

(S.P. 476) (L.D. 1378) Bill "An Act To Preserve the Medical Liability Climate in the State by Capping Noneconomic and Punitive Damages" Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-323)**

Under suspension of the rules, Second Day Consent Calendar notification was given.

There being no objection, the Senate Papers were **PASSED TO BE ENGROSSED as Amended** in concurrence.

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH**.

On motion of Representative MAREAN of Hollis, the House adjourned at 6:04 p.m., until 9:00 a.m., Friday, June 3, 2005 in honor and lasting tribute to Carl Estes, of Buxton.